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The Federal Communications Commission
Washington D.C. 20554

Federal Communications Commission
Office of Secretary

In the Matter of:

Federal-State Joint Board on
Universal Service (FCC 96-93)

CC Docket No. 96-45

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REPLY COMMENTS

SUMMARY

The Council of the Great City Schools, the coalition of some fifty of the nation's largest central city school districts, is pleased to submit our reply to selected comments filed pursuant to the Commission's November 18, 1996 Public Notice, and again to underscore our endorsement of the recommended decision of the Federal-State Joint Board on Universal Service. The Council finds the recommended decision to be a balanced and workable framework for achieving within a reasonable period of time the universal access and service for the nation's public schools and libraries which was intended in the Telecommunication Act of 1996. The reply comments of the Council are offered to provide clarification in certain detailed areas of school operations and demographics and to provide counterpoint arguments in certain instances, which may facilitate more fully informed consideration by the Commission.

1. THE SCOPE OF THE UNIVERSAL SERVICE FUND OUTLINED IN THE JOINT BOARD'S RECOMMENDED DECISION ON THE RANGE OF COVERED SERVICES AND THE ANNUAL MONETARY SIZE OF THE FUND IS A REASONABLE BALANCE BETWEEN THE EXTREMES OF MEETING THE EXTENSIVE TELECOMMUNICATIONS/INFORMATION SERVICES NEEDS OF SCHOOL CHILDREN AND LIBRARY PATRONS AS SOON AS TECHNICALLY FEASIBLE, VERSUS LIMITING THE FINANCIAL CONTRIBUTIONS OF TELECOMMUNICATIONS PROVIDERS TO AN ABSOLUTE MINIMUM THROUGH NARROW INTERPRETATIONS OF THE LAW AND SEVERE CAPS ON THE FUND

2. A SIGNIFICANT CONSENSUS AMONG EDUCATION COMMENTERS APPEARS TO HAVE EMERGED ON THE USE OF FEDERAL FREE AND REDUCED PRICE LUNCH PROGRAM ELIGIBILITY CRITERIA AS THE MEASURE OF THE LOW-INCOME STATUS OF A SCHOOL FOR DISCOUNT PURPOSES.

3. NO ALTERNATIVE LOW-INCOME MEASURES, WHICH DO NOT ACTUALLY COUNT AN APPLICANT'S LOW-INCOME POPULATION, ARE NECESSARY OR DESIRABLE AS VEHICLES FOR INCREASING AN APPLICANT'S DISCOUNT PERCENTAGE

4. THE COMMENTS THAT CERTAIN APPLICANTS OR CONSORTIA OF APPLICANTS WILL QUICKLY APPLY AND DRAIN THE ANNUAL UNIVERSAL SERVICE FUND ALLOTMENT ARE VALID, SUGGESTING THAT THE \$250 MILLION ALLOTMENT RESERVATION FOR THE MOST DISADVANTAGED SCHOOLS BE INCREASED AND OTHER REASONABLE LIMITATIONS BE ESTABLISHED

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REPLY COMMENTS

OF THE COUNCIL OF THE GREAT CITY SCHOOLS

The Council of the Great City Schools, the coalition of some fifty of the nation's largest central city school districts, is pleased to submit our reply to selected comments filed pursuant to the Commission's November 18, 1996 Public Notice, and again to underscore our endorsement of the recommended decision of the Federal-State Joint Board on Universal Service. The Council finds the recommended decision to be a balanced and workable framework for achieving within a reasonable period of time the universal access and service for the nation's public schools and libraries which was intended in the Telecommunication Act of 1996. The reply comments of the Council are offered to provide clarification in certain detailed areas of school operations and demographics and to provide counterpoint arguments in certain instances, which may facilitate more fully informed consideration by the Commission.

1. THE SCOPE OF THE UNIVERSAL SERVICE FUND OUTLINED IN THE JOINT BOARD'S RECOMMENDED DECISION ON THE RANGE OF COVERED SERVICES AND THE ANNUAL MONETARY SIZE OF THE FUND IS A REASONABLE BALANCE BETWEEN THE EXTREMES OF MEETING THE EXTENSIVE TELECOMMUNICATIONS/INFORMATION SERVICES NEEDS OF SCHOOL CHILDREN AND LIBRARY PATRONS AS SOON AS TECHNICALLY FEASIBLE, VERSUS LIMITING THE FINANCIAL CONTRIBUTIONS OF TELECOMMUNICATIONS PROVIDERS TO AN ABSOLUTE MINIMUM THROUGH NARROW INTERPRETATIONS OF THE LAW AND SEVERE CAPS ON THE FUND

The Council disagrees with Ameritech and other commenters that request a narrowing of the range of discounted services supported by the universal service fund. Particularly critical to attainment of real access to telecommunication and information services for school children and library patrons is the eligibility of "internal building connections" for discounts. While our December 19, 1996 comments address the legal authority of the Commission on this matter, the Council wishes to emphasize that running a line to a building may be less costly than hooking up the students' classrooms, but real access for human beings can only be derived from making the internal building connections which deliver the service to the child in his/her classroom. The \$2.25 billion annual limitation on discount subsidies might not allow for as swift of a transition to universal access as the Council would optimally desire. But, nonetheless, the Council believes that this recommended financial cap is reasonable and defensible, and the Council supports it.

2. A SIGNIFICANT CONSENSUS AMONG EDUCATION COMMENTERS APPEARS TO HAVE EMERGED ON THE USE OF FEDERAL FREE AND REDUCED PRICE LUNCH PROGRAM ELIGIBILITY CRITERIA AS THE MEASURE OF THE LOW-INCOME STATUS OF A SCHOOL FOR DISCOUNT PURPOSES.

A substantial number of the education organization commenters, including the United States Department of Education in its reply comments, acknowledge that the Joint Board's recommendation to use the federal free and reduced price lunch program eligibility is an acceptable measure for the determination of the low-income level of a school, if not a library serving the same jurisdiction. For schools which do not participate in the national school lunch program, student eligibility can still be established by having the parent(s) fill out an appropriate eligibility form. Education groups, which

originally voiced reservations over certain low-income measures, now appear to acknowledge the reasonableness and general acceptability of the use of student eligibility for free and reduced price lunch for such purposes. The Education and Library Network Coalition of seventeen education-related signatories in its December 19, 1996 comments on page 6 states: "In the recommendations, school lunch is the criterion upon which discounts are based. EdLinc concurs that this can be a reasonable proxy for affordability in many instances." [Emphasis added] Even education groups which had previously proffered alternative low-income methodologies are acknowledging the utility of the school lunch approach, as on the final page of the comments of the Council for Educational Development and Research which states: "The attached study demonstrates an alternative method for arriving at discounts for school districts taking into account these factors. It was done before the Joint Board recommendation of the stepped school lunch formula. We believe, however, that the school lunch formula is an acceptable approach for determining the relative income of a school district." [Emphasis added]

The Council of the Great City Schools, which represents the school districts with the largest concentrations of low-income students in the nation, entirely supports this growing consensus forming around the use of free and reduced price lunch eligibility counts for establishing school level low-income status. With the changes enacted in the national welfare program, which will exclude certain low-income families from the AFDC, now TANF program rolls such as immigrants or those not meeting work criteria within specified time limits, the national school lunch program may provide the only complete national data source at the school level for determining low-income status without sizable exclusions of low-income populations.

3. NO ALTERNATIVE LOW-INCOME MEASURES, WHICH DO NOT ACTUALLY COUNT AN APPLICANT'S LOW-INCOME POPULATION, ARE NECESSARY OR DESIRABLE AS VEHICLES FOR INCREASING AN APPLICANT'S DISCOUNT PERCENTAGE

While a consensus seems to have formed around the use of school lunch data to establish low-income status for universal service fund purposes, a few education groups request the option to use alternative methods to claim a greater discount than their actual low-income count would support. Justifications offered for such alternative methodologies include lesser administrative burdens than conducting an actual count, exigent hardship circumstances, and conclusory statements of alleged undercounts. The Council acknowledges that any uniform national data source has some inherent weaknesses. However, an "undercount" is in the eye of the beholder, and one group's asserted undercount is often offset by a competing group's asserted undercount. The most important concept, in the Council's opinion, is that the selected methodology can not be readily manipulated or "gamed" by the applicant.

For example, the House Committee on Education and Labor in its 1994 amendments to the Elementary and Secondary Education Act (Title I section 1113(a)(5)) established only five allowable measures of school-based poverty, when for the previous three decades such school-based poverty was established by locally-selected measures or indicators of poverty. The Congressional rationale for narrowing the allowable options to actually poverty counts under one of the five expressed measures was identifiable data manipulation by some applicants, such as affluent Scarsdale, New York using the divorce rates of female head of the households as its indicator of income neediness. With nearly a hundred thousand schools and tens of thousands of libraries eligible to draw down on the Fund, the Commission should be concerned with the volumes of potential claims for such special treatment under the discount methodology.

The Council particularly cites and disagrees with the two alternative methods for increasing an applicant's discount percentage suggest by the Education and Library Network Coalition at pages 7 and 8 of their December 19, 1996 comments. The "Hardship" appeal suggestion and the "Private School" proxy suggestion invite the "gaming" of the Fund's discount system.

The Council believes that a hardship appeal option will generate thousands of requests for special consideration based on factors other than actual low-income counts or high cost status as allowed in the Act. Such a hardship option, in our opinion, should either not be allowed or be extremely narrow in its application.

The private school proxy suggestion by EdLinc is a more overt "gaming" of the system, which is not allowable under current federal education law (34 CFR 200.28(a)(2)). In short, this suggestion would allow private schools to avoid counting their own student low-income population, and instead use the low-income population of the neighboring public school or public school district. This approach inherently overstates virtually every private school's low-income rate and allows such private schools to qualify and receive an unjustifiably high discount from the universal service fund. A hypothetical may help illustrate the discrepancy in the EdLinc suggestion. A hypothetical public school draws half of its school population from the "poor side of the tracks" and half of its school population from the "affluent side of the tracks" establishing a 50% free and reduced priced lunch student eligibility count. A nearby private school, charging a \$4500 per year tuition, draws 100 students from the hypothetical public school's attendance area. To allow this private school to claim that half of these 100 students, paying \$4500 each, come from poor families (as the EdLinc suggestion allows) confounds logic, common sense, and operational reality. The Council asks the Commission to take note that five of the major elementary and secondary education organizations signing the EdLinc comments, which include this private school proxy comment, have taken the entirely opposite position in written communication with the Secretary of Education on an analogous private school low-income proxy issue. The Council requests that the Commission dismiss this EdLinc suggestion, and merely require private schools to actually count their low-income population through establishing and certifying the free and reduced price lunch program eligibility of its individual students.

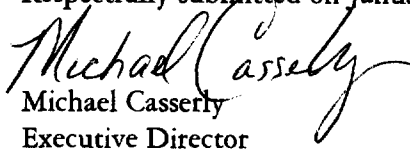
4. THE COMMENTS THAT CERTAIN APPLICANTS OR CONSORTIA OF APPLICANTS WILL QUICKLY APPLY AND DRAIN THE ANNUAL UNIVERSAL SERVICE FUND ALLOTMENT ARE VALID, SUGGESTING THAT THE \$250 MILLION ALLOTMENT RESERVATION FOR THE MOST DISADVANTAGED SCHOOLS BE INCREASED AND OTHER REASONABLE LIMITATIONS BE ESTABLISHED

The Council concurs with the Ameritech comments at page 20 and 25, and the Education and Library Network comments at page 10 that certain applicants could apply quickly and drain the Fund's annual allotment, leaving nothing until the following year for other applicants. Large consortia, particularly if allowed to use the discount rate of their poorest consortia member, could readily absorb much of the Fund's annual resources. Therefore, some reasonable limitations established by the Commission, including a discount rate based on the entire demographics and costs of the consortia as a whole, are warranted. The Council opines that it is not solely speed and administrative efficiency, as Ameritech suggests, which allow certain school district or library applicants to be the first at the door of the Universal Service Fund. The prerequisite requirements recommended by the Joint Board for a bona fide request to the Fund make factors, such as capacity, resources, prior year organization, and prioritization among other pressing needs, pivotal to an applicant's ability to expeditiously request support from the Fund. The Council strongly supports the Joint Board's recommendation of a

reservation of funds for disadvantaged schools due to these types of factors which limit their ability to meet the prerequisite requirements and make a bona fide request. The Council requests that the reservation for the most disadvantaged schools, at least in the first few years of Fund operation, be expanded from the 10% Joint Board recommendation to a 25% to 35% reservation. The Council believes that it is far easier for the more advantaged schools, who are already in the fast lane of the information superhighway, to make a bona fide request than for the disadvantaged schools, which remain at the on-ramp to the superhighway. Achieving basic access for the "have not" schools should be a very high priority which is reflected in expanding the recommended reservation of funds.

The Council appreciates the consideration of our reply comments and would be pleased to answer any question or provide any documentation which may be useful to the Commission. We can be reached at 202-393-2427.

Respectfully submitted on January 9, 1997,


Michael Casserly
Executive Director

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